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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,144	12/12/2003	Michael J. Shebek	APC-P0002	1570
27268	7590	09/09/2005	EXAMINER	
BAKER & DANIELS LLP 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204			FETSUGA, ROBERT M	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,144

Applicant(s)

SHEBEK, MICHAEL J.

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/12/03 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's election of Group I in the reply filed on July 11, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Accordingly, claims 18 and 19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b).

2. The drawings are objected to because material cross-hatching is inaccurate in Fig. 6. Applicant argues at page 6 of the response filed July 11, 2005 paragraphs 0041 and 0042 of the instant specification disclose the material currently depicted. The examiner can not agree. The noted paragraphs have again been reviewed, but the depicted material is not disclosed therein.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered

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and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Claims 1 and 6-11 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a track and coping assembly with a insert plate, does not reasonably provide enablement for a track and coping assembly without a insert plate. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

Applicant argues at page 7 of the response paragraph 0036 of the instant specification indicates use of plate 90 is optional. However, there is no teaching in paragraph 0036 concerning tab 48. Claim 1 recites a tab (ln. 5). Paragraphs

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0040 and 0042 indicate the requirement of plate 90 to lock the track in the coping when the coping includes such a tab.

4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim recites the same subject matter as that of claim 2 as stated at page 6 of the response. Therefore, claim 3 is redundant to claim 2.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-17 are rejected under 35 U.S.C. 102(a/e) as being anticipated by Last '990.

The Last '990 reference discloses a track and coping assembly comprising: a coping 26 including a slot having an

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opening 42, an inner wall 31, an opposite inner wall 33, and a tab 32; a reversible track 11 including a first channel 16 having a first opening 17, a second channel 19 having a second opening 21, and two locking ledges 13; an insert plate 34; a pulley 23; and a pulley housing 36, as claimed. Re claims 1 and 12, the openings 17,21 in Last are "adapted to receive" different rope/slider arrangements as discussed at column 5, lines 33-42, therein. Furthermore, these statements of intended use does not appear to impose any patentably distinguishing structure of the claimed assembly over that disclosed by Last.

Applicant argues at pages 7-8 of the response the openings 17,21 in Last do not anticipate the use of the openings as claimed. The examiner can not agree. Last teaches at lines 42-53 of column 12 the track and coping assembly can be used with different cover configurations. This disclosure appears to be at least equivalent to the disclosure found in paragraph 0052 noted by applicant. Applicant has not shown, nor does the examiner understand, how these two disclosures can be distinguished.

7. Applicant's remaining remarks have been fully considered and either have been previously addressed or are not deemed persuasive in view of the prior art as specifically applied in light of the level of skill in the pertinent art.

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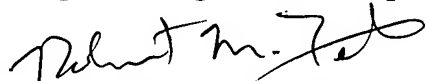
8. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

9. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.


Robert M. Fetsuga
Primary Examiner
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